

1 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
2 GERALDINE A. FREEMAN, Cal. Bar No. 111483  
3 DAVID A. DEGROOT, Cal. Bar No. 168073  
4 Four Embarcadero Center, 17th Floor  
5 San Francisco, California 94111-4109  
6 Telephone: 415-434-9100  
7 Facsimile: 415-434-3947  
8 E-mail: ddegroot@sheppardmullin.com  
9 Attorneys for Plaintiff and Counter-defendant  
10 COMERICA BANK  
11 KELLY, HERLIHY, & KLEIN, L.L.P.  
12 Michael G. Glanzberg, Cal. Bar. No. 178751  
13 44 Montgomery Street, Suite 2500  
14 San Francisco, California 94104  
15 Telephone: (415) 951-0535  
16 Facsimile: (415) 391-7808  
17 FIGARI & DAVENPORT, L.L.P.  
18 Don Colleluori, Texas State Bar No. 04581950  
19 Andrew P. Speicher, Texas State Bar No. 24027878  
20 (Admitted *Pro Hac Vice*)  
21 3400 Bank of America Plaza  
22 901 Main Street  
23 Dallas, Texas 75202  
24 Telephone: (214) 939-2000  
25 Facsimile: (214) 939-2090  
26 Attorneys for Defendants/Counter-Plaintiffs  
27 MICHAEL L. McDONALD and ALAN P. McDONALD

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

\*E-FILED - 2/6/07\*

COMERICA BANK, a Michigan banking  
corporation,

Plaintiff,

v.

MICHAEL L. McDONALD and ALAN P.  
McDONALD,

Defendants.

AND RELATED CROSS-ACTION.

Case No. C 06-03735 RMW (RS)

The Hon. Ronald M. Whyte

**SECOND STIPULATION AND  
PROPOSED ORDER TO EXTEND  
TIME TO FILE RESPONSIVE  
PLEADING AND TO HEAR MOTION  
TO DISMISS AND STATUS  
CONFERENCE**

Date: March 2, 2007

Time: 9:00 a.m.

Crtrm.: 6

[Complaint Filed: June 12, 2006]

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2 Plaintiff and Counter-Defendant Comerica Bank ("Plaintiff") and Defendants  
3 and Counterclaimants Michael L. McDonald and Alan P. McDonald ("Defendants")  
4 hereby stipulate and request a court order as follows:

5 Defendants filed their First Amended Counterclaim on December 14, 2006.

6 Following a stipulation ("First Stipulation") to extend the time to do so,  
7 Plaintiff filed a motion to dismiss the First Amended Counterclaim.

8 The hearing on the motion to dismiss and a status conference in this matter  
9 were scheduled to take place on February 16, 2007, at 9:00 a.m., but were recently  
10 rescheduled by the Court for March 2, 2007, at 9:00 a.m. and 10:30 a.m. respectively.

11 Pursuant to the First Stipulation, the deadlines for Defendants to file their  
12 brief in opposition to the motion to dismiss is January 26, 2007, and the deadline for  
13 Plaintiff to file its reply is February 2, 2007.

14 Plaintiff and Defendants have agreed to amend this briefing schedule as  
15 follows, consistent with the new hearing date:

16 (1) opposition brief due: February 2, 2007  
17 (2) reply brief due: February 16, 2007

18 Further, the parties request that the status conference be moved to 9:00 a.m.  
19 on March 2, 2007, so that it may take place at the same time as the hearing on Plaintiff's  
20 motion to dismiss.

21 Dated: January 24, 2007

22 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

24 By

/s/ David A. DeGroot

25 Attorneys for Plaintiff and Counter-defendant  
26 COMERICA BANK

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1 Dated: January 24, 2007

2 KELLY, HERLIHY, & KLEIN, L.L.P.

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By /s/ Michael G. Glanzberg

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Attorneys for Defendants and Counterclaimants

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MICHAEL L. McDONALD  
and ALAN P. McDONALD

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**[PROPOSED] ORDER**

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For good cause shown, the amendment to the briefing schedule on Plaintiff's  
3 motion to dismiss proposed by the parties is hereby approved and the stipulated request to  
4 conduct the status conference at the same time as the hearing on such motion to dismiss, at  
5 9:00 a.m. on March 2, 2007, is granted. Plaintiff's motion to dismiss and the case  
6 management conference shall be heard on March 2, 2007, at 9:00 a.m.

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8 Dated: 2/6/07

*Ronald M. Whyte*

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9 The Honorable Ronald M. Whyte  
United States District Judge

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